



BACKPACK

We're ready! Are you?

Volume 4

Reducing Liability

Some of the most frequently asked questions about CERT programs concern liability and how to manage the liability for the CERT program. Actually, providing training in how to respond safely and effectively in an emergency is a positive way to address liability and prepare CERT members, especially given the alternative of having spontaneous volunteers "show up to help." There are proactive steps you can take to manage liability concerns for your program.

Conducting Research

As a CERT Program Manager, you are also a volunteer manager who needs to become familiar with the regulatory requirements for volunteers in your State. Virtually all States have laws dealing with liability, interviewing, and discrimination in selection, and you will need to conduct some research to ensure that your program is compliant.

Some suggestions for conducting research include:

- Consult your jurisdiction's legal counsel. Consulting with legal counsel is probably the fastest way to find answers to most—but not all—of your questions.
- Conduct Internet research. There is a vast array of sources available to you on the Internet if you know where to look.
- Talk with other CERT Program Coordinators to discuss how they addressed the liability issue.

Currently House Bill 5416, amendment to Public Act 390, has been passed by the House and is in front of the Senate. Specifically cites Citizen Corps.

"A volunteer member of the Michigan Citizen Corps is immune from tort liability for injury to or death of a person or damage to property caused by the volunteer while in the course of providing service as a member of the Michigan Citizen Corps."

Reducing Liability During Training:

Instructors Steps that you can take with your instructors to help reduce liability include:

- Establishing training standards and safety requirements for training.
- Briefing all instructors on their responsibilities to conduct safe and effective training.
- Ensuring that all instructors are prepared to meet the objectives for their sessions.
- Providing co-instructors to assist the instructors for all activities.
- Ensuring that all instructors model appropriate safety behavior, such as safety gear for all demonstrations.

Additionally, be sure that your instructors understand that they can give students permission to opt out of an activity if they have a condition that they may aggravate by participating.

Reducing Liability During Training: Students

Steps that you can take with CERT students to help reduce liability include:

- Ensure that students understand that they may opt out of activities if they have a condition that they may aggravate by participating.

- Require all students to sign a hold harmless agreement. (See sample agreement in the resources.)
- Explain the potential hazards that students may face in class activities, during exercises, and during activation.
- Provide copies of all CERT safety rules and requirements to each student. Require them to sign one copy and return it to you before class begins. Encourage the students to keep the other copy for their records.
- Require all students to wear safety gear for all activities.
- When you see an unsafe act, correct it immediately!
- If someone is injured during class, document the injury and ensure that the student receives appropriate medical treatment.
- Emphasize that rescuer safety is the primary concern in training and activation.

Reducing Liability During Training:

Classroom/Exercise Areas

Steps that you can take to ensure that the CERT classroom and exercise area are safe include:

- Walk through the classroom and exercise area(s) before each class to identify and correct unsafe conditions.
- Check all to ensure that it is in good working order.

Be sure to make these checks before every class begins.

Reducing Liability During Training: Materials

The main step to take to reduce liability related to the CERT materials is to ensure that you have

written releases for all copyrighted materials (including photographs and cartoons).

(Note that if you are using FEMA's materials without alteration, all necessary copyright releases have been secured.)

Remember that photographs and other materials found on the Internet are copyrighted.

Reducing Liability: During Exercises

Always take the measures below to reduce liability during exercises:

- Conduct a pre-exercise briefing in which you provide the objectives (including safety objectives) for the exercise.
- Treat all drills, functional exercises, and full-scale exercises as the real thing. Enforce all safety rules strictly.
- Stress teamwork, safety equipment, and the use of the buddy system.
- If you see an unsafe act, intervene immediately!
- Conduct a post-exercise debriefing, and cover safety issues as part of the debriefing.
- Stress the need to document everything using the forms approved by the jurisdiction.
- If someone is injured, document the injury, and ensure that the volunteer receives appropriate medical care.

Reducing Liability: During Team Activation

Take the measures below to reduce liability during team activation:

- Educate your departments about the CERT program, the level of training provided, and how to access and use

CERT members during an emergency or disaster.

- Require that all team activations are in accordance with established CERT protocols.
- Require team leaders to verify that all CERT members have the necessary tools and equipment, including safety gear, for the response.
- Require a good sizeup and communication of sizeup information to first responders as soon as possible after arrival at the scene.
- Require complete documentation of team assignments, actions taken, results, and communications with first response agency personnel.
- Stress that CERT members should respond in accordance with their training. Being a CERT member does not provide rights or privileges beyond being a CERT volunteer.
- If a CERT member is injured during activation, ensure that the injury is documented and that the volunteer receives appropriate medical treatment.

For these measures to work as intended, you will need to take action before activation and reinforce the measures during team exercises.

For additional information on Michigan Citizen Corps and the CERT program contact Michigan Citizen Corps Program Director Gary Zulinski at (517) 241-3867 or zulinskig@michigan.gov

SAMPLE FORM

[COMMUNITY NAME] COMMUNITY EMERGENCY RESPONSE TEAM PROGRAM HOLD HARMLESS/PERMISSION REQUEST

I, _____, hereby request permission to participate in the _____ Community Emergency Response Team (CERT) program. I understand that this training will involve active physical participation, which includes a potential risk of personal injury and/or personal property damage. I make this request with full knowledge of the possibility of personal injury and/or personal property damage. Further, I have read and understand the program outline that describes all class sections and the associated activities.

I agree to hold The American Red Cross, the _____, _____ Fire Department, [COMMUNITY NAME] and [COMMUNITY NAME] Emergency Management, and their agents and personnel, harmless from any and all claims, actions, suits, and/or injury that I may suffer and which may arise as a result of my participation in the above mentioned class.

I agree to follow the rules established by the instructors, and to exercise reasonable care while participating in the CERT program. I understand that if I fail to follow the instructor's rules and regulations or if I fail to exercise reasonable care, I can be administratively removed from the program.

By executing this release I certify that I have read this release in its entirety, understand all of its terms and have had any questions regarding the release or its effect satisfactory answered. I sign this release freely and voluntarily.

Signature

Date

Emergency Contact Name

Emergency Contact Number

Comments:

Signature of Instructor

Date